

§411.14

45 CFR Ch. IV (10–1–15 Edition)

facility, the composition of the UC population, the prevalence of substantiated and unsubstantiated incidents of sexual abuse and sexual harassment, and any other relevant factors. Video monitoring equipment may not be placed in any bathroom, shower or bathing area, or other area where UCs routinely undress.

(c) Care provider facilities must conduct frequent unannounced rounds to identify and deter sexual abuse and sexual harassment. Such rounds must be implemented during night as well as day shifts. Care provider facilities must prohibit staff from alerting others that rounds are occurring, unless such announcement is related to the legitimate operational functions of the care provider facility.

§411.14 Limits to cross-gender viewing and searches.

(a) Cross-gender pat-down searches of UCs must not be conducted except in exigent circumstances. For a UC that identifies as transgender or intersex, the ORR care provider facility must ask the UC to identify the gender of staff with whom he/she would feel most comfortable conducting the search.

(b) All pat-down searches must be conducted in the presence of one additional care provider facility staff member unless there are exigent circumstances and must be documented and reported to ORR.

(c) Strip searches and visual body cavity searches of UCs are prohibited.

(d) Care provider facilities must permit UCs to shower, perform bodily functions, and change clothing without being viewed by staff, except: In exigent circumstances; when such viewing is incidental to routine room checks; is otherwise appropriate in connection with a medical examination or monitored bowel movement; if a UC is under age 6 and needs assistance with such activities; a UC with special needs is in need of assistance with such activities; or the UC requests and requires assistance. If the UC has special needs and requires assistance with such activities, the care provider facility staff member must be of the same gender as the UC when assisting with such activities.

(e) Care provider facilities must not search or physically examine a UC for the sole purpose of determining the UC's sex. If the UC's sex is unknown, it may be determined during conversations with the UC, by reviewing medical records, or, if necessary, learning that information as part of a broader medical examination conducted in private by a medical practitioner.

(f) Care provider facilities must train youth care worker staff in proper procedures for conducting pat-down searches, including cross-gender pat-down searches and searches of transgender and intersex UCs. All pat-down searches must be conducted in a professional and respectful manner, and in the least intrusive manner possible, consistent with security needs and existing ORR policy, including consideration of youth care worker staff safety.

§411.15 Accommodating UCs with disabilities and UCs who are limited English proficient (LEP).

(a) Care provider facilities must take appropriate steps to ensure that UCs with disabilities (including, for example, UCs who are deaf or hard of hearing, those who are blind or have low vision, or those who have intellectual, psychiatric, or speech disabilities) have an equal opportunity to participate in or benefit from all aspects of the care provider facility's efforts to prevent, detect, and respond to sexual abuse and sexual harassment. Such steps must include, when necessary to ensure effective communication with UCs who are deaf or hard of hearing, providing access to in-person, telephonic, or video interpretive services that enable effective, accurate, and impartial interpretation, both receptively and expressively, using any necessary specialized vocabulary. In addition, the care provider facility must ensure that any written materials related to sexual abuse and sexual harassment are translated and provided in formats or through methods that ensure effective communication with UCs with disabilities, including UCs who have intellectual disabilities, limited reading skills, or who are blind or have low vision.

(b) Care provider facilities must take appropriate steps to ensure that UCs